



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date Introduced:	1/29/07	Bill No:	SB 148
Tax:	Property	Author:	Hollingsworth
Related Bills:	AB 297 (Maze) SB 114 (Florez)		

BILL SUMMARY

This bill restarts the four-year exemption period for newly planted fruit and nut trees damaged by the January 2007 freeze that are currently in their exemption phase.

ANALYSIS

CURRENT LAW

Article XIII, Section 3(i) of the California Constitution exempts from property tax fruit and nut trees planted in orchard form until four years after the season first planted. The land upon which the trees are planted remains subject to tax. A similar exemption exists for grapevines, except that the exemption period is for three years.

Revenue and Taxation Code Section 211 restates the exemption provisions of the constitution and additionally provides that any tree severely damaged during the exemption period as a result of the December 1990 and December 1998 freezes restarts the exemption for another four years. Any tree pruned to the trunk or bud union to establish a new shoot as a replacement is considered "severely damaged."

In addition to the exemption for newly planted orchards provided by Section 211, Property Tax Rule 131 provides that the four-year exemption period will also apply to individual trees when (1) a tree is newly planted within an existing orchard (i.e., a replacement tree) or (2) a tree that had reached commercial production requires grafting causing another non-producing period before it will bear fruit or nuts.

Once the exemption period expires and the trees are subject to tax, Section 53 provides the initial base year value of the trees for purposes of Proposition 13 will be the full cash value of the trees as of January 1 on the first year they are taxable.

PROPOSED LAW

This bill would amend Section 211 to restart the four-year exemption period for trees that, while they were still in their exemption period, were so severely damaged by the January 2007 freeze that they required pruning to the trunk or bud union to establish a new shoot as a replacement for the damaged tree.

IN GENERAL

Property Taxation of Non-Williamson Act Land. Agricultural property is subject to the assessment rules of Proposition 13, in that it retains its base year value until new construction or a change in ownership takes place. Inflationary increases in assessment are limited to no more than two percent a year. Trees and vines are subject to property tax as "living improvements" and a base year value is established for them once the exemption period for new plantings ends. In addition to the typical costs of land preparation and planting, an investment in an orchard or vineyard is a long-term

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venture with a period of several years before any cash flow is realized. Both types of crops require several years to reach maturity, and the land is committed to that specific use with little flexibility to other uses. In recognition of this fact, the law exempts fruit and nut bearing trees from taxation during a portion of their immature life. The taxation of the trees is synchronized with the trees ability to produce a sellable crop. (The *land* in which the trees are planted remains subject to taxation, it is only the *trees* that are temporarily exempt.)

Property Taxation: California Land Conservation Act (Williamson Act). Under the Williamson Act, landowners may enter into contracts with participating cities and counties to restrict their lands to agricultural or open-space uses. The contract must be for a minimum term of 10 years, and contracts are automatically renewed each year unless other action is taken. In exchange for entering into these contracts, the land and any living improvements (trees and vines) are valued according to their income earning ability. The valuation is based on a statutory formula that capitalizes the income that the land is capable of producing from its agricultural use. The law also provides that each year, the property will be assessed at the lowest of the factored base year value, the Williamson Act value, or the current fair market value. In this way, landowners participating in the Williamson Act program are guaranteed that their land value will never be assessed at a greater value than noncontracted land.

BACKGROUND

Similar legislation was enacted for two other severe freezes occurring in December of 1990 and 1998.

Severe Freeze	Type	Bill Number
December 1990	Trees & Grapevines	AB 1771 (Harvey) Stats. 1991, Ch. 1034
December 1998	Trees	SB 1014 (Poochigian) Stats. 1999, Ch. 291

AB 1771 added the provision starting a new exemption period for fruit or nut bearing trees or grapevines, damaged by the December 1990 freeze. AB 1771 was sponsored by the Kern County Assessor in an effort to provide relief to farmers who had vineyards and orchards still within the initial exemption period for newly planted vines and trees when the December 1990 freeze hit. There were 10 days of freezing temperatures in December of 1990 which resulted in tree losses in Kern, Tulare, and Fresno Counties.

SB 1014 was sponsored by the California Citrus Mutual. Grapevines were not included in this bill because they were not damaged by the 1998 freeze.

COMMENTS

1. **Sponsor and Purpose.** The author is sponsoring this measure in an effort to restart the exemption period for trees damaged by the January 2007 freeze.
2. **These Trees Are Currently Exempt.** This bill would merely extend the exemption period for trees that are already exempt from tax. It follows the basic tax policy, that trees will not be subject to taxation until they reach maturity.

3. **This Bill Does Not Cover Williamson Act Properties – But They Effectively Receive Property Tax Relief Automatically.** The provisions of Section 211 relate to the establishment of the base year value of trees for purposes of a Proposition 13 assessment (i.e., factored base year value). Property subject to a Williamson Act contract is assessed at the lowest of three values: the factored base year value, the Williamson Act value, or the current fair market value. This measure would not affect the assessed value of those orchard lands affected by the freeze where the Williamson Act value is still the lowest of the three determined values. However, in those orchards, the assessed value would, generally, nevertheless be reduced the following year. This is because the Williamson Act value is determined according to a capitalization of income method. It will take some time for these damaged trees to recover to their natural state before the freeze and then more time to mature and start producing harvestable crops. Since a damaged orchard would produce a reduced or possibly no income, this loss in productive capacity would result in a reduced assessment for the trees on the subsequent lien date (assuming that all other valuation factors remain constant from the previous year).
4. **Related Bills.** AB 297 (Maze) makes identical amendments as this bill. SB 114 (Florez) enacts various disaster relief provisions related to the freeze, including local government backfill for property tax revenue losses associated with assessment reductions due to the freeze under Section 170 and the retention of the homeowners' exemption on any home that may have been damaged.

COST ESTIMATE

With respect to administration, the Board would incur insignificant costs in informing and advising local county assessors, the public, and staff of the law changes. These costs are estimated to be under \$10,000.

REVENUE ESTIMATE

Unknown, but likely minimal. The long term tree damage is currently unknown. The extent of the permanent damage will not be known until after spring when new growth occurs. This bill applies to trees currently in their exemption period. Therefore, property tax revenue is not currently being realized from these trees.

Furthermore, trees currently subject to property tax that must be replaced are eligible for a new exemption period under existing law via Property Tax Rule 131. This rule also provides that a grafting of a tree that causes a re-occurrence of a nonproducing period makes the tree eligible for a new exemption period.

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